



Your Missouri Courts

Search for Cases by: [Judicial Links](#) | [eFiling](#) | [Help](#) | [Contact Us](#) | [Print](#)

GrantedPublicAccess Logoff HOERN_49692

22SL-CC02907 - THERESA PETRY V ROCKWOOD SCHOOL DISTRICT (E-CASE)[FV File Viewer](#)[Case Header](#)[Parties & Attorneys](#)[Docket Entries](#)[Charges, Judgments & Sentences](#)[Service Information](#)[Filings Due](#)[Scheduled Hearings & Trials](#)[Civil Judgments](#)[Garnishments/Execution](#)[Click here to eFile on Case](#)Sort Date Entries: ☒ Descending ☐ Ascending Display Options: [Click here to Respond to Selected Documents](#)

- 07/20/2022**
- ☐ **Corporation Served**
Document ID - 22-SMCC-5075; Served To - ROCKWOOD SCHOOL DISTRICT; Server - ; Served Date - 30-JUN-22; Served Time - 00:00:00; Service Type - Special Process Server; Reason Description - Served
 - ☐ **Memorandum Filed**
Memorandum for Clerk; AOS.
Filed By: WILLIAM KISTNER
On Behalf Of: THERESA PETRY
- 06/14/2022**
- ☐ **Summons Issued-Circuit**
Document ID: 22-SMCC-5075, for ROCKWOOD SCHOOL DISTRICT. Summons Attached in PDF Form for Attorney to Retrieve from Secure Case.Net and Process for Service.
- 06/10/2022**
- ☐ **Motion Special Process Server**
Request for Appointment of Process Server.
Filed By: WILLIAM KISTNER
On Behalf Of: THERESA PETRY
 - ☐ **Judge/Clerk - Note**
NO SUMMONS ISSUED DUE TO MISSING SPECIAL PROCESS SERVER FORM. E-FILE THE SPECIAL PROCESS SERVER FORM SO THE SUMMONS CAN BE ISSUED. IF USING A SPECIAL PROCESS SERVER, Per Local Rule 28 (E), you must submit the "Request for Appointment of Process Server" form, which can be found on the St. Louis County Court's Web Site.
- 06/09/2022**
- ☐ **Filing Info Sheet eFiling**
Filed By: WILLIAM KISTNER
 - ☐ **Note to Clerk eFiling**
Filed By: WILLIAM KISTNER
 - ☐ **Pet Filed in Circuit Ct**
Petition.
Filed By: WILLIAM KISTNER
On Behalf Of: THERESA PETRY
 - ☐ **Judge Assigned**
DIV 2

Case.net Version 5.14.54

[Return to Top of Page](#)

Released 07/15/2022

EXHIBIT 1

**IN THE MISSOURI CIRCUIT COURT
21st JUDICIAL CIRCUIT
ST. LOUIS COUNTY**

THERESA PETRY,)	
)	
)	
Plaintiff,)	Case No.
)	
v.)	
)	
ROCKWOOD SCHOOL DISTRICT,)	
)	
)	
Defendant.)	

PETITION

COMES NOW Plaintiff Theresa Petry and states:

Parties and Jurisdiction

1. Plaintiff Theresa Petry is a resident of the County of St. Louis and has inherited and owned the improved realty bearing the street address 1661 Wild Cherry Park Dr. ("Property") since 2018; she also has lived at the Property since then.

2. Defendant Rockwood School District ("RSD") is a Missouri Public School District that operates in St. Louis County and owns the improved realty bearing the street address 1780 Hawkins Road in Fenton, MO ("Rockwood Summit HS" or "High School"). Defendant RSD is susceptible to suit in its name.

3. Venue is proper in this Court under § 508.050 RSMo.

Facts Common to All Counts

4. Plaintiff incorporates by reference paragraphs 1 through 3, above.

5. Rockwood Summit HS is located immediately adjacent to Plaintiff's Property. In approximately March, 2017, Defendant RSD filed an application with the St. Louis County

Board of Zoning Adjustment (“Board”) seeking permission to make multiple changes to its self-described “baseball practice field” (“Ball Field”). That application committed RSD to installing 8’ high fencing and a new 20’ high backstop intended to “prevent ... foul balls [from] entering the neighboring yard”. That application further represented that the Ball Field was adjacent to the “rear yard” of the Property when, in fact, it abuts the Property’s front yard. That Application was granted by the Board based, on information and belief, on the misinformation supplied to it by RSD.

5. RSD’s utilization of the Ball Field has become so frequent and available to the public for multiple uses, including a dog park, that it has constituted, since 2018, a grossly unreasonable use of RSD property in a manner that causes severe detriments to Plaintiff, the fair market value of the Property, and seriously deprives Plaintiff of her right to quiet enjoyment of her home at the Property. RSD not only has far exceeded its use of the Ball Field as a “practice field”, its installation of an electronic scoreboard and utilization of it for competitive games against other high school teams, and its frequent rental of the Ball Field to teams and organizations unrelated to Rockwood Summit HS, has caused the scope and frequency of the use of the Ball Field to increase exponentially such that, on innumerable occasions, loud, boisterous crowds congregate immediately next to the front yard of the Property, members of those groups frequently harass Plaintiff, litter left by those groups strays from the Ball Field onto the Property and trespass on the Property, and baseballs often are batted or thrown by players and coaches using the Ball Field so that they rain down on the Property, depriving Plaintiff of the quiet enjoyment of her front yard and putting her motor vehicles and the Property in harm’s way. RSD is also currently in the process of constructing a new 10 foot high structure only 10 feet from the front yard of the Property that towers over any fence, including Plaintiff’s privacy

fence. Collectively, these unreasonable uses of the Ball Field shall hereinafter be described as the “Insults”.

6. Plaintiff has complained numerous times to RSD concerning the overuse of the Ball Field and the Insults, to no avail. On information and belief, Defendant RSD has the means and wherewithal to make renovations to the Ball Field and changes in its uses, such as reorienting the field, installing the promised fencing, and limiting use of the Ball Field to its self-described purpose as a “baseball practice field” so as to alleviate the Insults to Plaintiff’s Property, but it has failed to do so.

7. The conditions caused by the Insults, as described above, constitute a continuing but temporary nuisance that has caused, and continues to cause, substantial impairment of Plaintiff’s use and quiet enjoyment of her Property and loss in the fair rental value of the Property.

Count I – Inverse Condemnation

8. Plaintiff incorporates by reference paragraphs 1 through 7, above.

9. As set forth above, there have been innumerable Insults since 2018.

WHEREFORE, Plaintiff requests that the Court enter judgment in her favor, including an award of damages that is fair and reasonable, but in excess of \$25,000, along with reasonable attorneys’ fees and the costs of this action, for an order requiring Defendant to make such repairs and improvements to the Ball Field as are necessary to prevent future Insults, and for such other relief as the Court deems just.

Count II – Taking in Violation of Fifth Amendment to United States Constitution

10. Plaintiff incorporates by reference paragraphs 1 through 9, above.

11. The Insults have effected a taking of Plaintiff's Property in that it significantly diminished the value of her use of the Property.

12. Defendant Rockwood has not provided Plaintiff with just compensation for the diminution in value of the Property caused by the Insults.

WHEREFORE, Plaintiff requests that the Court enter judgment in her favor, including an award of damages that is fair and reasonable, but in excess of \$25,000, along with reasonable attorneys' fees and the costs of this action, for an order requiring Defendant Rockwood to make such repairs and improvements to the Ball Field as are necessary to prevent future Insults, and for such other relief as the Court deems just.

KISTNER, HAMILTON, ELAM & MARTIN, LLC

By: /s/ Elkin L. Kistner

Elkin L. Kistner #35287

William E. Kistner #70540

1406 North Broadway

St. Louis, MO 63102

Telephone: (314) 783-9798

Facsimile: (314) 944-0950

E-mail: elkinkis@law-fort.com

E-mail: bill@law-fort.com

Attorneys for Plaintiff

In the
CIRCUIT COURT
Of St. Louis County, Missouri



For File Stamp Only

THERESA PETRY
 Plaintiff/Petitioner

June 10, 2022
 Date

22SL-CC02907
 Case Number

vs.

ROCKWOOD SCHOOL DISTRICT
 Defendant/Respondent

2
 Division

REQUEST FOR APPOINTMENT OF PROCESS SERVER

Comes now Plaintiff THERESA PETRY, pursuant
 Requesting Party

to Local Rule 28, and at his/her/its own risk requests the appointment of the Circuit Clerk of

Tim Moore 6614 Clayton Rd., #311, MO 63117 314-961-2222
 Name of Process Server Address Telephone

David May 6614 Clayton Rd., #311, MO 63117 314-961-2222
 Name of Process Server Address or in the Alternative Telephone

Don Jones 6614 Clayton Rd., #311, MO 63117 314-961-2222
 Name of Process Server Address or in the Alternative Telephone

Natural person(s) of lawful age to serve the summons and petition in this cause on the below named parties. This appointment as special process server does not include the authorization to carry a concealed weapon in the performance thereof.

SERVE:

ROCKWOOD SCHOOL DISTRICT
 Name
1780 HAWKINS ROAD
 Address
FENTON, MO 63026
 City/State/Zip

SERVE:

Name

 Address

 City/State/Zip

SERVE:

Name

 Address

 City/State/Zip

SERVE:

Name

 Address

 City/State/Zip

Appointed as requested:

JOAN M. GILMER, Circuit Clerk

By
 Deputy Clerk

Date

/s/ William E. Kistner
 Signature of Attorney/Plaintiff/Petitioner
70540
 Bar No.
1406 N. Broadway, 63102
 Address
(314) 783-9873 (314) 944-0950
 Phone No. Fax No.

Local Rule 28. SPECIAL PROCESS SERVERS

(1) Any Judge may appoint a Special Process Server in writing in accordance with the law and at the risk and expense of the requesting party except no special process server shall be appointed to serve a garnishment [except as allowed by Missouri Supreme Court Rule 90.03(a)].

This appointment as Special Process Server does not include the authorization to carry a concealed weapon in the performance thereof.

(2) The Circuit Clerk may appoint a natural person other than the Sheriff to serve process in any cause in accordance with this subsection;

(A) Appointments may list more than one server as alternates.

(B) The appointment of a person other than the Sheriff to serve process shall be made at the risk and expense of the requesting party.

(C) Any person of lawful age, other than the Sheriff, appointed to serve process shall be a natural person and not a corporation or other business association.

(D) No person, other than the Sheriff, shall be appointed to serve any order, writ or other process which requires any levy, seizure, sequestration, garnishment, [except as allowed by Missouri Supreme Court Rule 90.03(a)], or other taking.

(E) Requests for appointment of a person other than the Sheriff to serve process shall be made on a "Request for Appointment of Process Server" electronic form, which may be found on the Court's Web Site, <https://wp.stlcountycourts.com > forms>.

(F) This appointment as Special Process Server does not include the authorization to carry a concealed weapon in the performance thereof.

SERVICE RETURN

Any service by the St. Louis County Sheriff's Office shall be scanned into the courts case management system. Any service by another Sheriff or a Special Process Server or any other person authorized to serve process shall return to the attorney or party who sought service and the attorney shall file the return electronically to the Circuit Clerk.



IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: RICHARD M STEWART	Case Number: 22SL-CC02907	(Date File Stamp)
Plaintiff/Petitioner: THERESA PETRY	Plaintiff's/Petitioner's Attorney/Address WILLIAM KISTNER 1406 North Broadway ST LOUIS, MO 63102	
Defendant/Respondent: ROCKWOOD SCHOOL DISTRICT	Court Address: ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105	
Nature of Suit: CC Injunction		

Summons in Civil Case

The State of Missouri to: ROCKWOOD SCHOOL DISTRICT

Alias:

1780 HAWKINS ROAD
FENTON, MO 63026

COURT SEAL OF



ST. LOUIS COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

SPECIAL NEEDS: If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739, email at SLCADA@courts.mo.gov, or through Relay Missouri by dialing 711 or 800-735-2966, at least three business days in advance of the court proceeding.

14-JUN-2022

Date

Further Information:

AD

Clerk

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with _____ a person at least 18 years of age residing therein.

☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).

☐ other _____

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____ (date).

(Seal)

My commission expires: _____

Date

Notary Public

Sheriff's Fees, if applicable

Summons \$ _____

Non Est \$ _____

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00 _____

Mileage \$ _____ (_____ miles @ \$._____ per mile)

Total \$ _____

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

Twenty First Judicial Circuit

NOTICE OF ALTERNATIVE DISPUTE RESOLUTION SERVICES

Purpose of Notice

As a party to a lawsuit in this court, you have the right to have a judge or jury decide your case. However, most lawsuits are settled by the parties before a trial takes place. This is often true even when the parties initially believe that settlement is not possible. A settlement reduces the expense and inconvenience of litigation. It also eliminates any uncertainty about the results of a trial.

Alternative dispute resolution services and procedures are available that may help the parties settle their lawsuit faster and at less cost. Often such services are most effective in reducing costs if used early in the course of a lawsuit. Your attorney can aid you in deciding whether and when such services would be helpful in your case.

Your Rights and Obligations in Court Are Not Affected By This Notice

You may decide to use an alternative dispute resolution procedure if the other parties to your case agree to do so. In some circumstances, a judge of this court may refer your case to an alternative dispute resolution procedure described below. These procedures are not a substitute for the services of a lawyer and consultation with a lawyer is recommended. Because you are a party to a lawsuit, you have obligations and deadlines which must be followed whether you use an alternative dispute resolution procedure or not. **IF YOU HAVE BEEN SERVED WITH A PETITION, YOU MUST FILE A RESPONSE ON TIME TO AVOID THE RISK OF DEFAULT JUDGMENT, WHETHER OR NOT YOU CHOOSE TO PURSUE AN ALTERNATIVE DISPUTE RESOLUTION PROCEDURE.**

Alternative Dispute Resolution Procedures

There are several procedures designed to help parties settle lawsuits. Most of these procedures involve the services of a neutral third party, often referred to as the "neutral," who is trained in dispute resolution and is not partial to any party. The services are provided by individuals and organizations who may charge a fee for this help. Some of the recognized alternative dispute resolutions procedures are:

(1) Advisory Arbitration: A procedure in which a neutral person or persons (typically one person or a panel of three persons) hears both sides and decides the case. The arbitrator's decision is not binding and simply serves to guide the parties in trying to settle their lawsuit. An arbitration is typically less formal than a trial, is usually shorter, and may be conducted in a private setting at a time mutually agreeable to the parties. The parties, by agreement, may select the arbitrator(s) and determine the rules under which the arbitration will be conducted.

(2) Mediation: A process in which a neutral third party facilitates communication between the parties to promote settlement. An effective mediator may offer solutions that have not been considered by the parties or their lawyers. A mediator may not impose his or her own judgment on the issues for that of the parties.

CCADM73

(3) Early Neutral Evaluation (“ENE”): A process designed to bring the parties to the litigation and their counsel together in the early pretrial period to present case summaries before and receive a non-binding assessment from an experienced neutral evaluator. The objective is to promote early and meaningful communication concerning disputes, enabling parties to plan their cases effectively and assess realistically the relative strengths and weaknesses of their positions. While this confidential environment provides an opportunity to negotiate a resolution, immediate settlement is not the primary purpose of this process.

(4) Mini-Trial: A process in which each party and their counsel present their case before a selected representative for each party and a neutral third party, to define the issues and develop a basis for realistic settlement negotiations. The neutral third party may issue an advisory opinion regarding the merits of the case. The advisory opinion is not binding.

(5) Summary Jury Trial: A summary jury trial is a non binding, informal settlement process in which jurors hear abbreviated case presentations. A judge or neutral presides over the hearing, but there are no witnesses and the rules of evidence are relaxed. After the “trial”, the jurors retire to deliberate and then deliver an advisory verdict. The verdict then becomes the starting point for settlement negotiations among the parties.

Selecting an Alternative Dispute Resolution Procedure and a Neutral

If the parties agree to use an alternative dispute resolution procedure, they must decide what type of procedure to use and the identity of the neutral. As a public service, the St. Louis County Circuit Clerk maintains a list of persons who are available to serve as neutrals. The list contains the names of individuals who have met qualifications established by the Missouri Supreme Court and have asked to be on the list. The Circuit Clerk also has Neutral Qualifications Forms on file. These forms have been submitted by the neutrals on the list and provide information on their background and expertise. They also indicate the types of alternative dispute resolution services each neutral provides.

A copy of the list may be obtained by request in person and in writing to: Circuit Clerk, Office of Dispute Resolution Services, 105 South Central Ave., 5th Floor, Clayton, Missouri 63105. The Neutral Qualifications Forms will also be made available for inspection upon request to the Circuit Clerk.

The List and Neutral Qualification Forms are provided only as a convenience to the parties in selecting a neutral. The court cannot advise you on legal matters and can only provide you with the List and Forms. You should ask your lawyer for further information.

CCADM73

AFFIDAVIT OF SERVICE

Case: 22SL-CC02907	Court: 21ST JUDICIAL CIRCUIT COURT	County: ST LOUIS, MO	Job: 7293999 (22-SMCC-5075)
Plaintiff / Petitioner: THERESA PETRY		Defendant / Respondent: ROCKWOOD SCHOOL DISTRICT	
Received by: Pro Serve		For: KISTNER, HAMILTON, ELAM & MARTIN, LLC	
To be served upon: ROCKWOOD SCHOOL DISTRICT C/O SUPERINTENDENT DR. TIM RICKER			Court Date:

I, Tim Moore, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and Informed said person of the contents herein

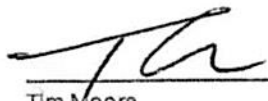
Recipient Name / Address: MARYILYN EASON FOR ROCKWOOD SCHOOL DISTRICT C/O SUPERINTENDENT DR. TIM RICKER, COMPANY: 111 E NORTH AVE RSD ADMINISTRATIVE CENTER, EUREKA, MO 63025

Manner of Service: Authorized, Jun 30, 2022, 10:10 am CDT

Documents: SUMMONS IN CIVIL CASE, NOTICE OF ALTERNATIVE DISPUTE RESOLUTION SERVICES, PETITION, PARTIES & JURISDICTION, FACTS COMMONS TO ALL COUNTS 1-2

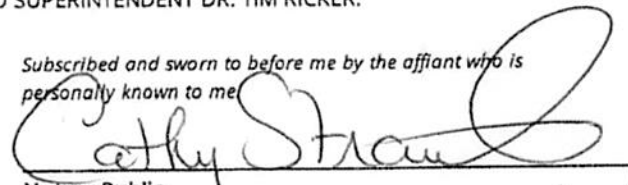
Additional Comments:

1) Successful Attempt: Jun 30, 2022, 10:10 am CDT at COMPANY: 111 E NORTH AVE RSD ADMINISTRATIVE CENTER, EUREKA, MO 63025 received by MARYILYN EASON FOR ROCKWOOD SCHOOL DISTRICT C/O SUPERINTENDENT DR. TIM RICKER.


Tim Moore
329

6/30/22
Date

Subscribed and sworn to before me by the affiant who is personally known to me


Cathy Straub
Notary Public
6/30/2022
Date

2/05/2025
Commission Expires

CATHY STRAUB
Notary Public - Notary Seal
St Louis County - State of Missouri
Commission Number 17735281
My Commission Expires Feb 5, 2025



IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: RICHARD M STEWART	Case Number: 22SL-CC02907
Plaintiff/Petitioner: THERESA PETRY	Plaintiff's/Petitioner's Attorney/Address WILLIAM KISTNER 1406 North Broadway ST LOUIS, MO 63102
Defendant/Respondent: ROCKWOOD SCHOOL DISTRICT	Court Address: ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105
Nature of Suit: CC Injunction	(Date File Stamp)

Summons in Civil Case

The State of Missouri to: ROCKWOOD SCHOOL DISTRICT

Alias:

1780 HAWKINS ROAD
FENTON, MO 63026

COURT SEAL OF



ST. LOUIS COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

SPECIAL NEEDS: If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739, email at SLCADA@courts.mo.gov, or through Relay Missouri by dialing 711 or 800-735-2966, at least three business days in advance of the court proceeding.

14-JUN-2022

Date

Further Information:

AD

Clerk

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with _____ a person at least 18 years of age residing therein.

☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).

☐ other _____

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____ (date).

My commission expires: _____

Date

Notary Public

(Seal)